

1997 (96) E.L.T. 170 (Tribunal)

IN THE CEGAT, EASTERN BENCH, CALCUTTA
Smt. Archana Wadhwa, Member (J)

ASHOKA SYNTHETICS LTD.

Versus

COMMR. OF C. EX., BHUBANESWAR

Order No. A/833/CAL/97, dated 22-7-1997 in Appeal No. E/217/97

Modvat - Capital goods - Wires and cables used for transmission of power essential for running of machinery used in manufacture of final product - Wires and cables eligible for Modvat credit as `capital goods' - Rule 57Q of Central Excise Rules, 1944.

- The definition of capital goods is quite wider, taking into its ambit, not only the main machines, machinery or plant which are directly used in the manufacture of the final product, but also the components and the spare parts and accessories which are essential for the running of the machine, plant etc. There is no doubt that without the help of cables in question which are used for transmission of power, the machinery cannot run. Hence, the wires and cables are capital goods which are entitled for the Modvat credit. [[1996 \(88\) E.L.T. 532](#) (Tribunal), [1997 \(93\) E.L.T. 439](#) (Tribunal) relied on]. [para 5]

CASES CITED

Collector v. Nova Udyog Ltd. — [1996 \(88\) E.L.T. 532](#) (Tribunal) — *Relied on* [Paras 2, 5]
 Avi Photochem Ltd. v. Commissioner — [1997 \(93\) E.L.T. 439](#) (Tribunal) — *Relied on* [Para 5]

REPRESENTED BY : Shri N.K. Mandal, Consultant, for the Appellant.

Shri S.N. Ghosh, JDR, for the Respondent.

[Order]. - The appellants are engaged in the manufacture of Cotton Yarn in cone form. The appellants filed a declaration under Rule 57T for availing the Modvat credit on capital goods under Rule 57Q with their jurisdictional Assistant Commissioner of Central Excise on 24-11-1994. The Modvat credit on "Insulated Copper Cables" was denied by the Assistant Commissioner concerned vide his Order dated 24-2-1995 on the ground that the Cables cannot be considered as capital goods as the same were not covered by the definition of capital goods. According to the Department, the "Insulated Copper Cables" had not produced and processed any goods, nor did it bring about any change in substance, nor were they specifically a component part or accessory of the machinery. Appeal against the above Order of the Assistant Commissioner did not find favour with the first appellate authority. Hence the present appeal before the Tribunal.

2. Arguing on the appeal, Shri N.K. Mandal, learned Consultant submits that the electric wires and cables are goods used in the appellants' plants for running of their spinning mill and are definitely covered by the definition of capital goods as given in Rule 57Q of the Central Excise Rules, 1944. He further submits that without insulated cables and wires, their various machines like ring frame machines, doubling machines, Main Control Panel, Blowroom lines, Cone Winding Machines etc. cannot be put to use. He, further, contends that insulated cables and wires are capital goods being a part of the plant and are accessories providing access to the use of plant and machinery as it is used for supply or power for running of the machinery, which is, in turn, used for producing or processing of their final product. According to him, their final product cannot be manufactured without the use of the cables in question. He also submits that the Tribunal has already held electric wires and cables to be capital goods in the case of *Collector of Central Excise, Meerut v. Nova Udyog Ltd.* reported in [1996 \(88\) E.L.T. 532](#) (Tribunal). In the circumstances, he prays for allowing the appeal.

3. Countering the arguments of the learned Consultant, Shri S.N. Ghosh, learned JDR for the Department submits that admittedly, the wires and cables are not covered by Clause (a) of the Explanation to Rule 57Q as they cannot be considered as a machine, machinery, plant, equipment, apparatus, tools or appliances. Further, Clause (b) refers to components, spare parts and accessories of the said machine.

4. Arguing on each of the expressions occurring in Clause (b), learned JDR, Shri S.N. Ghosh submits that "Insulated Copper Cables" cannot be said to be covered by any of the expressions used by the said Clause. He also reiterated the observations of the Commissioner (Appeals) that the goods in question are neither components nor spare-parts nor accessories inasmuch as the same are independent goods which are separately sold in the market and have never been sold as accessories in the market also. In the circumstances, he prays that the appeal be rejected.

5. I have considered the submissions of both sides. I find that the issue i.e. whether wires and cables are included in the definition of capital goods as contained in the provisions of Rule 57Q has already been decided by the Tribunal in the case of *Nova Udyog Ltd.* referred to supra. By holding so, the Tribunal has observed that in view of the wider meaning and enlarged definition, of the capital goods as can be seen from the Explanation, it is clear that not only the machines which are bringing about any change, but also components or accessories of the above machines used for the above purpose, are capital goods. I also find that in another case of *Avi Photochem Ltd. v. Commissioner of Central Excise, Pune* reported in [1997 \(93\) E.L.T. 439](#) (Tribunal) = 1997 (20) RLT 331 (CEGAT-WZB), Densitometer, an instrument used for testing density of chemicals to ensure their requisite strength and position, has been held to be capital goods. In the instant case, the Tribunal has observed

that though there was no doubt that the Densitometer does not by itself produce or process any goods or bring about any change in any substance, nevertheless, it was clear that the Densitometer is an essential requisite for manufacture of the final product in the appellants' plant and can be legitimately considered to be a component of the plant and therefore, would be entitled to the Modvat credit. I find that the definition of capital goods is quite wider, taking into its ambit, not only the main machines, machinery or plant which are directly used in the manufacture of the final product, but also the components and the spare parts and accessories which are essential for the running of the machine, plant etc. There is no doubt that without the help of the cables in question which are used for the transmission of power, the machinery cannot run. Hence, I hold that the wires and cables are capital goods which are entitled for the Modvat credit. Accordingly, the appeal is allowed and I set aside the impugned Order.
